
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 521 Session of
2021

INTRODUCED BY STEPHENS, HILL-EVANS, THOMAS, NEILSON, MILLARD,
HENNESSEY AND BERNSTINE, FEBRUARY 11, 2021

REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 11, 2021

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, in general provisions, further providing for
3 definitions; in licensing of drivers, further providing for
4 the offense of driving while operating privilege is suspended
5 or revoked; and, in driving after imbibing alcohol or
6 utilizing drugs, further providing for Accelerated
7 Rehabilitative Disposition and for mandatory sentencing and
8 providing for substance monitoring program.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 102 of Title 75 of the Pennsylvania
12 Consolidated Statutes is amended by adding definitions to read:

13 § 102. Definitions.

14 Subject to additional definitions contained in subsequent
15 provisions of this title which are applicable to specific
16 provisions of this title, the following words and phrases when
17 used in this title shall have, unless the context clearly
18 indicates otherwise, the meanings given to them in this section:

19 * * *

20 "Continuous alcohol monitoring device." A monitoring device
21 or instrument that:

1 (1) is attached to an individual;

2 (2) is designed to automatically and frequently test the
3 presence of alcohol in the individual regardless of the
4 method by which the device or instrument is attached to the
5 individual;

6 (3) detects the presence of alcohol; and

7 (4) detects an attempt to tamper with, obstruct or
8 remove the device or instrument.

9 * * *

10 "Remote breath testing device." An unsupervised mobile
11 breath testing device that:

12 (1) is not affixed to a motor vehicle;

13 (2) has the ability to confirm the identity and location
14 of an individual; and

15 (3) detects the presence of alcohol.

16 * * *

17 "Substance monitoring program." The court-ordered use of or
18 participation in any one or both of the following as a condition
19 of bail, probation or parole consistent with section 3818
20 (relating to substance monitoring program):

21 (1) A continuous alcohol monitoring device, remote
22 breath testing device or any other alcohol monitoring
23 technology or device, as determined by the court.

24 (2) Random drug testing or any other controlled
25 substance monitoring technology or device, as determined by
26 the court.

27 * * *

28 Section 2. Section 1543(b)(1.1)(i) of Title 75 is amended to
29 read:

30 § 1543. Driving while operating privilege is suspended or

1 revoked.

2 * * *

3 (b) Certain offenses.--

4 * * *

5 (1.1) (i) A person who has an amount of alcohol by
6 weight in his blood that is equal to or greater than .02%
7 at the time of testing or who at the time of testing has
8 in his blood any amount of a Schedule I or nonprescribed
9 Schedule II or III controlled substance, as defined in
10 the act of April 14, 1972 (P.L.233, No.64), known as The
11 Controlled Substance, Drug, Device and Cosmetic Act, or
12 its metabolite or [who refuses testing of blood or
13 breath] who refuses testing of breath under section 1547
14 (relating to chemical testing to determine amount of
15 alcohol or controlled substance) or chemical testing of
16 blood pursuant to a valid search warrant, court order or
17 any other basis permissible by the Constitution of the
18 United States and the Constitution of Pennsylvania, and
19 who drives a motor vehicle on any highway or trafficway
20 of this Commonwealth at a time when the person's
21 operating privilege is suspended or revoked as a
22 condition of acceptance of Accelerated Rehabilitative
23 Disposition for a violation of section 3802 or former
24 section 3731 or because of a violation of section 1547(b)
25 (1) or 3802 or former section 3731 or is suspended under
26 section 1581 for an offense substantially similar to a
27 violation of section 3802 or former section 3731 shall,
28 upon a first conviction, be guilty of a summary offense
29 and shall be sentenced to pay a fine of \$1,000 and to
30 undergo imprisonment for a period of not less than 90

1 days.

2 * * *

3 Section 3. Section 3807(a) of Title 75 is amended by adding
4 a paragraph to read:

5 § 3807. Accelerated Rehabilitative Disposition.

6 (a) Eligibility.--

7 * * *

8 (3) Notwithstanding the procedures for Accelerated
9 Rehabilitative Disposition for other crimes, the attorney for
10 the Commonwealth shall not submit a charge brought under this
11 chapter for Accelerated Rehabilitative Disposition unless
12 all of the following apply:

13 (i) The defendant admits that the Commonwealth's
14 evidence would prove the elements beyond a reasonable
15 doubt under section 3802.

16 (ii) The defendant agrees that the defendant's
17 admission may be used as a prior conviction for the
18 purpose of increasing the grading and penalty of any
19 subsequent offense under this title.

20 (iii) The defendant knowingly and voluntarily waives
21 the defendant's right to challenge the use of the
22 Accelerated Rehabilitative Disposition as a prior
23 conviction for the purpose of enhancing the grading and
24 sentencing of any subsequent offense under this title.

25 * * *

26 Section 4. Section 3815(b) (2) of Title 75 is amended and the
27 section is amended by adding a subsection to read:

28 § 3815. Mandatory sentencing.

29 * * *

30 (b) Parole.--

1 * * *

2 (2) The following shall be conditions of parole:

3 (i) If the offender is not determined under the
4 procedures set forth in section 3814 to be addicted to
5 alcohol or another substance, the offender must refrain
6 from:

7 (A) the use of illegal controlled substances;

8 and

9 (B) the abuse of prescription drugs, over-the-
10 counter drugs or any other substances.

11 (ii) If the offender is determined under the
12 procedures set forth in section 3814 to be addicted to
13 alcohol or another substance, the offender must do all of
14 the following:

15 (A) Refrain from:

16 (I) the use of alcohol or illegal controlled
17 substances; and

18 (II) the abuse of prescription drugs, over-
19 the-counter drugs or any other substances.

20 (B) Participate in and cooperate with drug and
21 alcohol addiction treatment under subsection (c).

22 (iii) In addition to any other condition or
23 restriction imposed, an individual who violates section
24 3802 and who has one or more prior offenses may be
25 ordered by the court to participate in a substance
26 monitoring program under section 3818 (relating to
27 substance monitoring program).

28 (b.1) Probation.--In addition to any other condition or
29 restriction imposed, an individual who violates section 3802 and
30 who has one or more prior offenses may be ordered by the court

1 to participate in a substance monitoring program as a condition
2 of probation under section 3818.

3 * * *

4 Section 5. Title 75 is amended by adding a section to read:
5 § 3818. Substance monitoring program.

6 (a) Evaluation required.--

7 (1) In all of the following circumstances, in addition
8 to any other condition or restriction imposed, an individual
9 shall be evaluated by a court to determine whether, at the
10 court's discretion, the individual may be ordered to
11 participate in a substance monitoring program:

12 (i) While adjudication of a violation of section
13 3802 (relating to driving under influence of alcohol or
14 controlled substance) is pending for an individual who
15 has one or more prior offenses.

16 (ii) While adjudication of two or more violations of
17 section 3802 are concurrently pending for an individual.

18 (iii) As a condition of probation or parole where
19 the individual violates section 3802 and has one or more
20 prior offenses.

21 (2) The court may use the assessment from section 3814
22 (relating to drug and alcohol assessments) to satisfy the
23 requirement under paragraph (1).

24 (b) Monitoring devices and technologies.--

25 (1) A substance monitoring program shall include a
26 requirement that the individual use or participate in one or
27 both of the following, as determined by the court:

28 (i) A continuous alcohol monitoring device, remote
29 breath testing device or any other similar alcohol
30 monitoring technology or device, other than an ignition

1 interlock system, as determined by the court.

2 (ii) Random drug testing or any other controlled
3 substance monitoring technology or device as determined
4 by the court.

5 (2) When determining the devices or technologies to be
6 used under paragraph (1), the court shall consider:

7 (i) the individual's prior offenses;

8 (ii) the individual's most recent violation of
9 section 3802;

10 (iii) any pending adjudication of the individual for
11 a violation of section 3802;

12 (iv) in consultation with the county, the monitoring
13 devices and technologies available to or utilized by the
14 county; and

15 (v) any other factor deemed appropriate by the
16 court.

17 (c) Determination and costs to be paid.--If the court orders
18 an individual to participate in a substance monitoring program,
19 the individual shall pay for costs associated with the
20 individual's participation in the substance monitoring program,
21 including costs associated with any required device or
22 technology.

23 (d) Prohibitions.--An individual ordered to participate in a
24 substance monitoring program is prohibited from all of the
25 following for the duration of the substance monitoring program:

26 (1) Imbibing alcohol or using controlled substances, or
27 both, as determined by the court.

28 (2) Tampering with any device or technology associated
29 with the substance monitoring program.

30 (3) Failing to comply with any other requirement ordered

1 by the court as part of the substance monitoring program.

2 (e) Construction.--Nothing in this section shall be

3 construed to prohibit a court from ordering:

4 (1) An individual pending adjudication for a single
5 violation of section 3802 with no prior offenses to
6 participate in a substance monitoring program as a condition
7 of bail.

8 (2) An individual convicted of a violation of section
9 3802 who has no prior offenses to participate in a substance
10 monitoring program as a condition of probation or parole.

11 Section 6. This act shall take effect as follows:

12 (1) The following provisions shall take effect
13 immediately:

14 (i) The addition of 75 Pa.C.S. § 3807(a)(3).

15 (ii) This section.

16 (2) The remainder of this act shall take effect in 120
17 days.